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BEFORE THE ARIZONA CORPORATION COMMISSION

2009 FEB 26 P 4: 17

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AZ CORP COMMISSION
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IN THE MATTER OF THE FORMAL) DOCKET NO. E-04204A-08-0589
COMPLAINT OF MARSHALL MAGRUDER)
FILED WITH THE ARIZONA CORPORATION)
COMMISSION ON DECEMBER 5, 2008.) **UNS ELECTRIC, INC.'S
RESPONSE TO MARSHALL
MAGRUDER'S MOTION**

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel, hereby responds to Mr. Marshall Magruder's Motion for a Prehearing Conference and Hearing Schedule filed with the Arizona Corporation Commission ("Commission") on February 17, 2009 ("Motion"). UNS Electric states as follows:

I. BACKGROUND.

Mr. Marshall Magruder filed a formal complaint with the Commission on December 5, 2008 ("Complaint") regarding three issues: (i) pole and underground cable replacement projects; (ii) Santa Cruz County scholarships; and (iii) life support. UNS Electric filed its response to that Complaint on December 29, 2008 ("Response").

In its Response, UNS Electric stated that the Complaint was merely a restatement of issues previously raised with and adjudicated by the Commission. In Decision No. 70360 (May 27, 2008), the Commission ordered UNS Electric to, among other things, file a written response to the issues raised by Mr. Magruder concerning pole and underground cable replacements and notification procedures for life support customers, and to meet with Mr. Magruder regarding his

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1 student loan and scholarship concerns. UNS Electric met each of these requirements in a timely
2 manner.¹

3 **II. UNS ELECTRIC HAS COMPLIED WITH DECISION NO. 70360.**

4 At this point in time, Mr. Magruder's Complaint should be addressed in the context of
5 whether UNS Electric complied with the requirements of Decision No. 70360. UNS Electric has
6 complied with all requirements of Decision No. 70360 and, as the Company stated in its
7 Response, no other party in the UNS Electric rate case docket has alleged that UNS Electric has
8 not complied with Decision No. 70360. Based upon the previous Commission Decision
9 adjudicating this matter, and the subsequent compliance filings made by UNS Electric, there is
10 clear and convincing evidence for the Commission to rule that UNS Electric has complied with
11 Decision No. 70360. In the event that the Commission is unwilling to make such a finding at
12 this time, the Commission should stay this matter and consolidate it with UNS Electric's future
13 rate case filing.

14 **III. 2009 UNS ELECTRIC RATE CASE.**

15 UNS Electric anticipates filing a rate case application with the Commission in the second
16 quarter of 2009, only two to four months from now. If the Commission is unwilling to rule that
17 UNS Electric has complied with Decision No. 70360 at this time, then the Commission should
18 consolidate this matter with the future rate case. To hold a formal hearing on these matters just
19 before another rate case is filed is not an efficient or prudent use of Commission, Commission
20 Staff, Company and/or ratepayer resources.

21 **IV. SCHOLARSHIPS.**

22 UNS Electric, City of Nogales and school district officials are continuing to meet on a
23 scholarship program and plan to submit a program for City Council approval in the near future.
24 Once the scholarship program has been fully developed and approved by the parties, UNS
25 Electric will provide Commission Staff with a copy of the Agreement

26 ¹ UNS Electric met the requirements of Decision No. 70360 by: (i) filing its written response on the pole and cable
27 issue on July 28, 2008; (ii) filing its written response regarding life support notification procedures on August 25,
2008; and (iii) meeting with Mr. Magruder regarding loan and scholarship issues on June 20, 2008 and filing its
statement on August 25, 2008.

1 **V. CONCLUSION.**

2 Once again, UNS Electric has fully complied with the requirements of Decision No.
3 70360 regarding pole and cable replacement, scholarship and life support issues. The record
4 supports a finding that UNS Electric has complied with the provisions of Decision No. 70360
5 and therefore, there is no reason, or need, for a hearing on these matters. In the alternative, this
6 matter should be stayed and consolidated with the future UNS Electric rate case.

7 WHEREFORE, for all the foregoing reasons, UNS Electric respectfully requests that the
8 Commission rule that UNS Electric has complied with Decision No. 70360. In the alternative,
9 UNS Electric respectfully requests that the Complaint should be stayed and consolidated with the
10 future UNS Electric rate case.

11
12 RESPECTFULLY SUBMITTED this 26th day of February 2009.

13 UNS ELECTRIC, INC.

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17 and

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22 Attorneys for UNS Electric, Inc.

23
24 Original and thirteen copies of the foregoing
 filed this 26th day of February 2009, with:

25 Docket Control
26 Arizona Corporation Commission
27 1200 West Washington Street
 Phoenix, Arizona 85007

1 Copies of the foregoing
2 mailed this 26th day of February 2009, to:

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4 P. O. Box 1267
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21 By Albbie Annual
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